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Respectfully submitted,

By: Thomas L. Evans  
Thomas L. Evans, Reg. No. 35,805  
BANNER & WITCOFF, LTD.

Atty. Docket No.  
005127.00033

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

|                                  |                          |
|----------------------------------|--------------------------|
| Daniel R. Potter et al.          | Examiner: Andrew J. Rudy |
| U.S. Pat. App. No.: 10/099,685   | Group Art Unit: 3627     |
| Filed: March 14, 2002            |                          |
| For: CUSTOM FIT SALE OF FOOTWEAR |                          |

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants respectfully ask for reconsideration of the Office Action of September 24, 2003. In that Office Action, the Examiner rejected claims 10-14 under 35 U.S.C. §103 over U.S. Patent No. 5,339,252 to White et al. Applicants courteously traverse this rejection, and



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**To:**  
Examiner A. Rudy, Group Art Unit 3627

**FROM:**  
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**YOUR REFERENCE NO.:**  
U.S. Pat. App. No. 10/099,685

**OUR REFERENCE (C/M) NO.:**  
005127.00033

**Re:**  
Request For Reconsideration

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**NAME:** Tom Evans      **PHONE:** (503) 425-6800

**COMMENTS:**

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U.S. Pat. App. No.: 10/099,685  
Atty. Docket N.: 005127.00033

respectfully ask for its reconsideration.

Claims 10-14 recites "an order receiving unit which receives orders for custom fitting footwear which identify at least one last..." Applicants respectfully point out that this feature is not taught or suggested by the White et al. patent. Instead, as discussed in, e.g., column 3, lines 11-32, the White et al. patent discloses collecting detailed foot size information for customer at a retail footwear store 102 and then transmitting that information to a centralized database 104. This information is then used to query a footwear last database 116 for a last that can be used to manufacture footwear for the customer.

Also, as acknowledged by the Examiner, the White et al. patent similarly does not teach or suggest a shoe distribution center or a heating unit. The Examiner has argued that it would have been obvious for one of ordinary skill in the art to modify the system of the White et al. patent to include a shoe distribution center and a heating unit. The Examiner has not, however, shown any motivation or teaching in the art to support this conclusion.

Accordingly, it is respectfully submitted that the White et al. patent does not each or suggest the invention as recited in claims 10-14. Applicants therefore ask that the rejection of claims 10-14 over the White et al. patent be withdrawn.

It is respectfully submitted that no fees are due for the consideration of this Request. If, however, the Examiner deems that fees are necessary, including any fees under 37 C.F.R. §1.116 or §1.17, then it is courteously requested that the Examiner charge such fees to the deposit account of the undersigned, Deposit Account No. 19-0733.

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In view of the above remarks and comments, Applicants respectfully submit that all of the claims are allowable, and that this application is therefore in condition for allowance. Favorable action in this regard is courteously requested at the Examiner's earliest convenience.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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December 24, 2003